

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	MBD NO. 18-MC-91115
)	
Applicant,)	
)	
v.)	
)	
INTERNATIONAL PACKAGING CORP.,)	
)	
Respondent.)	
)	

**APPLICATION TO SHOW CAUSE WHY ADMINISTRATIVE SUBPOENA SHOULD
NOT BE ENFORCED AND TWO/THREE-YEAR STATUTE OF
LIMITATIONS SHOULD NOT BE TOLLED**

1. This is an action for enforcement of a subpoena issued pursuant to Section 9 of the Fair Labor Standards Act, 29 U.S.C. § 209.
2. Jurisdiction is conferred upon the Court by Section 9 of the Federal Trade Commission Act of 1914, as amended, 15 U.S.C. § 49, incorporated in Section 9 of the Fair Labor Standards Act, as amended, 29 U.S.C. § 209.
3. Petitioner, Equal Employment Opportunity Commission (“EEOC” or “the Commission”), is the federal agency charged with the administration, interpretation, and enforcement of the Equal Pay Act and is expressly authorized to bring this action by Section 9 of the Fair Labor Standards Act, 29 U.S.C. § 209, as amended by Section 1 of the Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532.
4. International Packaging Corp. (“Respondent” or “Interpak”) is an employer located in the State of Rhode Island.

5. On January 25, 2018, pursuant to its authority under Section 9 of the Fair Labor Standards Act, 29 U.S.C. § 209, the Boston Area Office of the EEOC issued Respondent Subpoena No. NY-2018-001, which was duly served on Respondent.

6. Subpoena No. NY-2018-001 required Respondent to produce information needed, and permit inspection of Respondent's facility in Pawtucket, Rhode Island, as part of EEOC's directed investigation of Respondent's compliance with the Equal Pay Act (Charge No. 523-2017-00257).

7. Respondent has refused to fully comply with Subpoena No. NY-2018-001.

8. Respondent's failure to fully comply with the Subpoena has delayed and hampered EEOC's investigation.

9. The accompanying Affidavit of EEOC's Boston Area Office Director Feng ("Kenneth") An, and the attachments thereto, provide the factual support for this Application. The Affidavit and its attachments are incorporated by reference into this Application and are filed herewith as Exhibit A.

10. The accompanying Memorandum of Law provides the legal support for this Application. The Memorandum is incorporated by reference into this Application and is filed herewith as Exhibit B.

11. A Proposed Order is filed herewith and attached as Exhibit C.

PRAYER FOR RELIEF

As such, and for the reasons set forth in EEOC's Memorandum in Support of Application to Show Cause, filed herewith, EEOC respectfully requests:

a) That the Court issue an ORDER directing Respondent to appear before it and show cause, if there be any, why an Order should not issue directing Respondent to comply with

the subpoena and why the two/three-year statute of limitations on the recovery of back pay under the Equal Pay Act should not be tolled from January 25, 2018, the date the Equal Employment Opportunity Commission first issued its Equal Pay Act subpoena, until the time of compliance;

b) That the Court GRANT the Equal Employment Opportunity Commission its costs and such further relief as may be necessary and appropriate.

Dated: March 27, 2018

Respectfully submitted,

JAMES L. LEE
Deputy General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

JEFFREY BURSTEIN
Regional Attorney

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/s/ Sara Smolik
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on Respondent's President, John Kilmartin, International Packaging Corp., 517 Mineral Springs Avenue, Pawtucket, RI 02860, with a copy to Respondent's counsel, Houston A. Stokes, Esq., Littler Mendelson, P.C., 900 Third Avenue, New York, NY 10022-3298, by U.S. Mail, postage prepaid, on March 27, 2018.

_____/s/ Sara Smolik
Sara Smolik
Senior Trial Attorney